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Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea

Note verbale dated 13 November 2006 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006), and has the honour to attach its report pursuant to paragraph 11 of resolution 1718 (2006) on the steps taken by the Government of the United Kingdom to implement paragraph 8 of the above-mentioned resolution (see annex).

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Annex to the note verbale dated 13 November 2006 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Committee

Report of the United Kingdom pursuant to paragraph 8 of resolution 1718 (2006)

Introduction

1. Please see the relevant sections below for details of how the UK has implemented, and is further proposing to implement, the measures contained in paragraph 8 of UNSCR 1718 (2006) within the UK's legal and administrative structure. The responsible Government department in the United Kingdom, the Foreign and Commonwealth Office, will ensure that details of individuals and entities designated with respect to these measures are transmitted to appropriate government departments and posts overseas.

Financial asset freeze

2. HM Treasury is responsible for implementing financial sanctions within the United Kingdom. In order to implement the financial sanctions element of resolution 1718 (2006), HM Treasury are in the process of passing secondary legislation through the Privy Council, with adoption expected on 14 November 2006. This will provide the legal basis within the United Kingdom for:

a) freezing the assets of those individuals and entities listed by the Security Council Committee established pursuant to resolution 1718 (2006);

b) freezing the assets of persons acting on behalf of or at the direction of a designated person;

c) providing criminal penalties, including for any breaches which take place in respect of dealing with, or making funds available, within the UK and/or by UK citizens;

d) providing for licences to be administered by HM Treasury to allow funds to be dealt with or made available, consistent with the provisions set out in resolutions 1718 (2006), including in relation to exemptions.

3. The Bank of England is responsible for publicising financial sanctions and administrative compliance with the UK's legal obligations as agent for and under direction from HM Treasury. This is achieved initially through the publication of a Bank Notice and also through an alert system which updates approximately 2000 subscribers. Financial institutions will therefore able to freeze relevant accounts of listed persons and entities to ensure compliance with the obligations set out in resolution 1718 (2006).

Travel ban

4. The UK complies with UN Security Council Resolutions that impose restrictive travel measures through their inclusion in the Immigration (Designation of Travel Bans) Order 2000. This Order is made by a Government Minister under Section 8B of the Immigration Act 1971 and laid before Parliament. It came into force on 10th October 2000. It is regularly amended to update the list of travel bans included in the schedule to the Order. Details of those individuals subject to a travel ban are also included in the appropriate UK watch list.

5. The effect of the 2000 Order is that a person named by or described in an instrument designated by the Order becomes an excluded person and must be refused leave to enter or remain in the UK. It also provides for the automatic cancellation of any existing permission to stay in the UK. The only exceptions permitted are to enable the UK to comply with its other international obligations in respect of the European Court of Human Rights or the 1951 Convention relating to the Status of Refugees.

6. In respect of resolution 1718 (2006) the UK is in the process of amending the 2000 Order and the resolution will be included in this amendment. Pending designation under the 2000 Order the UK relies on administrative powers contained within domestic legislation to deny entry to, or transit through, the UK of those subject to a travel ban on the grounds that their presence in the UK would be not be considered conducive to the public good.

Exports

7. Resolution 1718 (2006) calls on states to take action against DPRK, including implementing controls on:

   - the export of certain military goods e.g. tanks, aircraft, warships and missiles;

   - the export of sensitive technologies which could contribute to DPRK's nuclear and ballistic missile (WMD) programmes;

   - the export of luxury goods;

   - the provision of technical assistance, training or other services in relation to military goods and sensitive technologies of the kinds described above;

- the procurement of military goods and sensitive technologies of the kinds described above so that DPRK cannot export to other countries.

8. The following export controls relevant to the provisions of resolution 1718 (2006) are already in place:

The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ("the Export Order") covers:

- exports of military-listed goods are prohibited for export from the UK to all destinations without a licence;

- a prohibition on the provision of technical assistance by anyone to a person or place outside the European Community (EC), and of such assistance by a UK person from a place outside the EC to a person outside the EC, in respect of articles subject to WMD end-use control;

- transhipment of military and dual-use goods, (including those controlled under WMD end-use control), through the UK to DPRK are prohibited without a licence.

The Council Regulation (EC) No.1334/2000 ("the Dual-Use Regulation") covers:

- exports from the Community of items licensable under the WMD end-use control, as well as other specified dual-use goods, are prohibited, unless under the authority of a licence. Licensing, penalties and enforcement provisions of the Dual-Use Regulation are implemented in the UK under the Export Order.

The Trade in Goods (Control) Order 2003, ("the Trade Order") covers:

- trade prohibition on any act or part of an act done in the UK which may result in the removal of "controlled goods", (i.e. military list items excluding software and technology), from one third country to another third country (including DPRK);

- trade prohibition on any act or part of an act done in the UK or elsewhere by a UK person of "restricted goods" (i.e., certain security and paramilitary police equipment and long range missiles) which will or may result in the removal of those goods from one third country to another third country (including DPRK).

9. An EC Regulation (see paragraphs 16 and 17) will need to be adopted to implement the controls on:

- export of luxury goods;

- technical assistance for goods other than WMD-controlled under the Export Order;

- procurement of those items covered by resolution 1718 (2006) from DPRK other than those currently controlled under the Trade Order.

Following the adoption of an EC Regulation - which will be directly applicable in UK domestic law - the precise form of UK implementing legislation will be determined. This will include consideration of whether further secondary legislation under the UN Act 1946 is required.

Enforcement

10. HM Revenue and Customs (HMRC) is the UK's enforcement authority for the sanctions listed in paragraphs 7, 8 and 9 above. HMRC's role is to prevent unauthorised exports of military and dual-use goods leaving the UK. All military exports from the UK require an export licence issued by the Department of Trade and Industry (DTI). The export of nuclear-related materials and technologies is controlled under Council Regulation (EC) 1334/2000. A DTI licence is also required for the export of dual-use goods to countries outside the customs territory of the Community. A licence application for export to the DPRK, as a country of concern, would be subject to particularly close scrutiny. In addition, goods destined for the DPRK do not benefit from the normal export licensing relaxation for military and dual-use goods transiting the UK.

11. Since February 2006 HMRC has paid particular attention to trade with the DPRK. Following the adoption of resolution 1718 (2006) checks are now in place on HMRC's frontier declaration processing system to target all consignments to and from the DPRK. In addition, UK customs officers monitor all DPRK vessels arriving in the UK closely. Actions will include boarding and searching the vessel for illegal goods.

12. HMRC have alerted frontier officers about the measures in resolution 1718 (2006) relating to luxury goods, pending adoption of an EC Regulation specifying the prohibited items.

UK Overseas Territories and Crown Dependencies

13. In the UK Overseas Territories the direct export controls required by Overseas Territories in relation to DPRK are already in place under the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004.

14. Resolution 1718 (2006) will be further implemented by a UN Act Order for the asset freeze, luxury goods and procurement measures when adoption of an EC Regulation has been concluded.

15. The Order will cover all Overseas Territories with the exception of Gibraltar which will be covered by the EC Regulation.

EU measures

16. We are working with our EU partners to ensure EU-level implementation. This will ensure consistent implementation by member states, but is also necessary for full UK implementation as certain of the measures (luxury goods prohibition) come within Community competence.

17. A Common Position has been agreed by partners and adoption is expected at the 20 November European Agriculture and Fisheries Council. In the meantime, EU Member States are urgently considering a draft EC Regulation.

United Kingdom
13 November 2006